

Joel Christiansen, OSB #080561
Vogele & Christiansen
812 NW 17th Ave.
Portland, OR 97209
T: (503) 841-6722
E: joel@oremploymentlawyer.com

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ADRIANA HAYS, an individual; **NIKOLAUS
HIRSHBERGER**, an individual;

Plaintiffs,

Case No. 3:16-cv-1942

COMPLAINT AND JURY TRIAL DEMAND
(Fair Labor Standards Act)

v.

AXIOM ENTITIES LLC, an Oregon Limited
Liability Company dba **AXIOM ECO-PEST
CONTROL**; and **AXIOM EPC OF OREGON
LLC**, an Oregon Limited Liability Company
dba **AXIOM ECO-PEST CONTROL**;

Defendants.

NATURE OF ACTION

1. This is an action for the recovery of unpaid overtime wages and related liquidated damages, penalties, attorney fees, and costs under the Fair Labor Standards Act, 29 U.S.C. § 216(b), and Oregon state wage and hour law, O.R.S. § 653.055.

JURISDICTION AND VENUE

2. This Court has jurisdiction of this action under 28 U.S.C. § 1331 because it arises under the laws of the United States. This Court has supplemental jurisdiction of Plaintiffs' Oregon state law claims under 28 U.S.C. § 1367 because the claims are so related to Plaintiffs'

federal law claims that they form part of the same case under Article III of the United States Constitution.

3. The unlawful employment actions alleged herein were committed in the District of Oregon and venue is proper in this district.

PARTIES

4. Plaintiff Adriana Hays is an individual resident of the State of Oregon. Attached to this complaint as Exhibit A is Ms. Hays' consent to join this action pursuant to 29 U.S.C. § 216(b).

5. Plaintiff Nikolous Hirshberger is an individual resident of the State of Oregon. Attached to this complaint as Exhibit B is Mr. Hirshberger's consent to join this action pursuant to 29 U.S.C. § 216(b).

6. Defendant Axiom Entities LLC is an Oregon Limited Liability Company headquartered in Milwaukie, Oregon. Axiom Entities LLC operated under the assumed business name "Axiom Eco-Pest Control" and was engaged in interstate commerce at all times relevant to this complaint.

7. Defendant Axiom EPC of Oregon LLC is an Oregon Limited Liability Company headquartered in Portland, Oregon. Axiom EPC of Oregon LLC operated under the assumed business name "Axiom Eco-Pest Control" and was engaged in interstate commerce at all times relevant to this complaint.

8. Defendant Axiom Entities LLC and Defendant Axiom EPC of Oregon LLC are jointly and severally liable to Plaintiffs for the claims set forth in this complaint as Plaintiffs' joint and/or predecessor and successor employers.

////

COMMON FACTS

9. Defendants employed Plaintiffs as pest control technicians at all times relevant to this complaint. Plaintiffs worked for Defendants in commerce.

10. Plaintiffs were at all times nonexempt employees under the Fair Labor Standards Act and Oregon state law because Plaintiffs were not paid a salary and did not perform exempt duties.

11. Plaintiffs routinely worked in excess of forty hours per workweek for Defendants during their employment. Defendants did not compensate Plaintiffs at a rate of not less than one and one-half times their regular rate for all hours worked in excess of forty hours each workweek.

12. Defendants' failure to pay Plaintiffs' overtime wages was willful because Defendants knew what they were paying Plaintiffs and intended to do so.

13. Plaintiffs demanded payment of their overtime from Defendants in writing on September 8, 2016. Defendants have not remitted any payment to Plaintiff or otherwise substantively responded to Plaintiffs' written demands.

FIRST CLAIM FOR RELIEF (Overtime - Fair Labor Standards Act)

14. Plaintiff realleges paragraphs 1-13.

15. Defendants have unlawfully failed to pay Plaintiffs' overtime wages as required by 29 U.S.C. § 207(a)(1).

16. Defendants are liable to Plaintiffs in the amount of Plaintiffs' unpaid overtime compensation and an additional amount as liquidated damages under 29 U.S.C. § 216(b).

17. In addition to any judgment awarded to Plaintiffs, this Court shall allow a reasonable attorney's fee to be paid by Defendant, and costs of the action pursuant to 29 U.S.C. § 216(b).

SECOND CLAIM FOR RELIEF
(Overtime - Oregon Law)

18. Plaintiff realleges paragraphs 1-13.
19. Defendants have unlawfully failed to pay Plaintiffs' overtime wages as required by O.R.S. § 653.261 and related administrative regulations.
20. Defendants are liable to Plaintiffs for the full amount of Plaintiffs' unpaid overtime compensation and civil penalties provided in O.R.S. § 652.150 pursuant to O.R.S. § 653.055(1).
21. In addition to any judgment awarded to Plaintiffs, this Court may award reasonable attorney fees to Plaintiffs under O.R.S. § 653.055(4).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- A. On Plaintiffs' First Claim for Relief:
 - a. For unpaid overtime compensation;
 - b. For liquidated damages in an amount equal to Plaintiffs' unpaid overtime;
 - c. For attorney's fees and costs;
 - d. All other equitable and legal relief this Court deems just.
- B. On Plaintiffs' Second Claim for Relief:
 - a. For unpaid overtime compensation;
 - b. For penalty wages equal to Plaintiffs' hourly rate times eight hours times thirty days;
 - c. For attorney's fees and costs;
 - d. All other equitable and legal relief this Court deems just.

////

JURY TRIAL DEMAND

22. Plaintiffs demand a trial by jury of all issues properly subject to a jury trial.

Dated: October 5, 2016

/s/ Joel Christiansen

Joel Christiansen, OSB #080561

Attorney for Plaintiffs